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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-fifth session

SUMMARY RECORD OF THE 1063rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 16 August 1994, at 10 a.m.

Chairman: Mr. GARVALOV

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9, PARAGRAPH 1, OF THE CONVENTION (agenda item 5) (continued)

Burundi: Additional information requested under article 9, paragraph 1, of the Convention (continued)

1. Mr. SHERIFIS introduced the following draft decision, which he had revised after consultation with other members:

"The Committee on the Elimination on Racial Discrimination,

"Deeply concerned at the massive violations of human rights and acts of racial discrimination occurring in Burundi, a State party to the International Convention on the Elimination of All Forms of Racial Discrimination, which may lead to further deterioration of the current critical situation with genocidal dimensions,

"Recalling the measures and procedures outlined in its working paper on the prevention of racial discrimination, including early warning and urgent procedures (A/48/18, annex III),

"Regretting the adverse effects of certain mass media reports which foster hostility and violence,

"Expressing its appreciation for the positive role played by several non-governmental organizations in monitoring developments and undertaking the 'International Inquiry into Human Rights Violations in Burundi since 21 October 1993',

"Concerned at the recurring large-scale ethnic violence in the area and emphasizing the need for the investigation and prosecution of the perpetrators in order to restore confidence in the rule of law, thus facilitating the repatriation of the refugees and displaced persons,

"Affirming that the victims and their families should be compensated in accordance with article 6 of the Convention,

"Confirming the conclusions and recommendations it adopted on Burundi at its forty-fourth session,

"1. Recommends that the Secretary-General and competent United Nations organs, such as the Security Council, consider urgent measures in cooperation with the Organization of African Unity, with a view to avoiding a new human tragedy in Burundi;

"2. Welcomes the establishment by the High Commissioner for Human Rights of an office of the Centre for Human Rights in Bujumbura;

"3. Supports the Technical Assistance Programme for Burundi and invites Governments of States parties to contribute substantially for the success of this programme;

"4. Expresses its readiness to cooperate with the High Commissioner for Human Rights in the fields of its competence, especially concerning legislative, administrative and judicial reform and the training of government officials and magistrates, and requests him to inform the Committee of relevant developments and of the results of his efforts."

2. The draft decision expressed the Committee's concern that the tragedy of Rwanda should not be repeated in Burundi. It called upon the relevant bodies of the United Nations, in consultation with the Organization of African Unity, to take appropriate action.

3. He wished to emphasize that the reference to "mass media reports" in the third preambular paragraph was not intended as a condemnation of the media as a whole, but of certain reports which had only served to increase hostility and violence. The fifth preambular paragraph expressed the Committee's concern that refugees and displaced persons should eventually return to their homes in peace, a matter which came within its sphere of competence, because most of the people involved belonged to one ethnic group, and their persecutors to another. The final preambular paragraph recalled the Committee's extensive discussion of the situation in Burundi at its previous session.

4. Paragraphs 1 and 2 of the operative part called upon the Secretary-General and the competent United Nations bodies to take appropriate action to resolve the situation in Burundi, and welcomed the steps taken by the High Commissioner for Human Rights. Paragraph 4 indicated the action the Committee was willing to take in its own areas of competence.

5. Mr. SHAHI suggested that the following phrase should be added at the end of the second preambular paragraph: "as well as its general recommendation XVIII (44) on the establishment of an international tribunal to prosecute crimes against humanity", which would bring the draft decision into line with the one adopted on Rwanda.

6. Mr. VALENCIA RODRIGUEZ said that the situation in Burundi was obviously getting worse and there was a serious danger of a bloody conflict of the kind which had erupted in Rwanda. The report of a visit to Burundi by the non-governmental organization, Amnesty International, in July 1994, which had been made available to the Committee, was particularly telling. The tension between the Hutu and Tutsi tribes was clearly ethnic in nature and thus came within the Committee's sphere of competence. It was therefore appropriate that the Committee should offer its assistance in the process of reforming State institutions, which would help to guarantee human rights for all and promote national reconciliation.

7. The Committee had also called upon the appropriate United Nations agencies to take urgent action to stop the hostilities. Perhaps it should urge the High Commissioner for Human Rights to intervene directly.

8. Mr. DIACONU expressed his support for the draft decision. There was still time for the international community to act in Burundi; it was the last chance to break the vicious circle of violence and bring the hostilities to an

end. It was, however, strange that the Permanent Representative of Burundi in Geneva had been unable to attend the Committee's debate. The Committee must continue to keep the situation under review and urge the Secretary-General and the Security Council to take appropriate action.

9. Mr. FERRERO COSTA said he supported the draft decision, as amended by Mr. Shahi, but suggested the addition of a fifth operative paragraph, stating that the Committee intended to keep the situation in Burundi under review and reminding the Government of its obligations under the Convention to provide additional information if the Committee so requested. He thought it was important to make that obligation explicit, since the Government of Burundi had not yet submitted any information at all to the Committee.

10. Mr. CHIGOVERA expressed his support for the draft decision. Any solution to the problem of Burundi must address the basic causes of the situation; the United Nations might send troops to the country, but they could not stay there indefinitely. One of the most important long-term needs was to restore an ethnic balance among the staff of State institutions, such as the army, the police, the security forces and the judiciary. The Government's attempt to do so had clearly failed, as the Human Rights Committee had noted in its comments on the report of Burundi at its recent session (CCPR/C/79/Add.41, para. 8).

11. The Committee's decision should emphasize the need for the international community to deal with the causes of ethnic conflict. In his view, the inclusion of a reference to the proposed international tribunal to prosecute those responsible for human rights violations, proposed by Mr. Shahi, would be perceived as a threat by the present Government; it was surely better to offer assistance in the search for a long-term solution which would be acceptable to all groups of the population.

12. Mr. WOLFRUM said that he had argued strongly for the prosecution of human rights offenders because of its value as a deterrent. However, he agreed with Mr. Chigovera that it was pointless merely to bring alleged offenders before a court; it was essential to find a solution which would enable all the people of Burundi to live in peace under the rule of law. He therefore suggested that the addition of a new paragraph, in which the Committee would request the Organization of African Unity and other international organizations to help the Government of Burundi to restructure the State and Government and restore the rule of law, but specifying that all decisions must be acceptable to the whole population of Burundi.

13. Outside influences had definitely been at work in Burundi, although perhaps to a lesser extent than in Rwanda. Perhaps the draft decision might also say that all States, both those bordering on Burundi and others, had an obligation to remain neutral towards the internal struggles in the country. The same remark might be made about the mass media, which had sometimes served to increase tension rather than relieve it.

14. Mr. ABOUL-NASR said that the reference to the mass media in the third preambular paragraph should not focus on reports which fostered hostility and violence, as their adverse effects were negligible in Burundi, given that few

people were in a position to watch television or read newspapers. It should instead express gratitude to the media for highlighting the problems in Burundi and prompting the Security Council and other bodies to take action.

15. The fourth preambular paragraph should acknowledge the role of governmental and non-governmental organizations not only in monitoring developments but also in providing assistance.

16. The phrase "... emphasizing the need for the investigation and prosecution of the perpetrators ..." in the fifth preambular paragraph should be amended to read: "... emphasizing the need for reconciliation and the establishment of a government representing the people and the beginning of the reconstruction of the country ...". Refugees would be less inclined to return home if large-scale prosecutions and investigations were launched, and reconciliation was essential if peace was to be restored.

17. The sixth preambular paragraph should be deleted, as any consideration of compensation was premature in view of the chaotic situation prevailing in Burundi.

18. Mr. SHAHI, referring to the fourth preambular paragraph, said he agreed that governmental and non-governmental organizations should be commended on the assistance they were providing in Burundi. The reference in the fifth preambular paragraph to the investigation and prosecution of perpetrators of human rights violations should, however, be maintained. Refugees' fears of returning home would be assuaged if they were convinced that the guilty parties would be brought to justice. Reconciliation was a long-term process, whereas the situation called for immediate measures to restore confidence in the rule of law.

19. The sixth preambular paragraph should not be deleted. Although it was true that the situation in Burundi precluded any immediate settlement of compensation claims, the right to compensation in accordance with article 6 of the Convention should be acknowledged as a matter of principle.

20. In paragraph 1, the Committee was fully justified in referring to involvement of the Organization of African Unity in the light of the Secretary-General's report entitled "An Agenda for Peace" (A-47/277), which laid great store on the potential role of regional agencies inter alia in post-conflict peace-building. The text should, however, be amended to read "... the Secretary-General and the Security Council and competent United Nations organs consider urgent measures in cooperation with the Organization of African Unity ... ".

21. The Security Council was the only United Nations body mandated to order intervention in Burundi. The rapid deployment of peace-keeping troops should be considered if they were guaranteed the authority to prevent killings and were not forced to stand by as spectators. There was no doubt that an ethnic balance had to be restored in the public institutions of Burundi, but the prerequisite was the restructuring of the State. It was doubtful whether the Security Council would sanction using United Nations troops for such an ambitious undertaking.

22. Mr. SONG Shuhua said that the immediate task in Burundi was to stabilize the situation and ensure respect for international law. Only when that had been achieved could the perpetrators of human rights violations be prosecuted. The existing wording of the third preambular paragraph should be retained because of the power of the mass media to exacerbate tension and promote hostility.

23. Mr. AHMADU said he agreed that the third preambular paragraph should remain as it stood. In the fourth preambular paragraph, reference should also be made to charitable organizations, which were providing invaluable assistance in Burundi.

24. He agreed that reconciliation was the overwhelming priority in Burundi. The fifth preambular paragraph should therefore be amended to read: "... the need for reconciliation, rehabilitation and reconstruction in order to restore confidence in the rule of law, thus facilitating the return of the refugees and displaced persons".

25. The sixth preambular paragraph should be deleted entirely, because any claims for compensation at the present time would divert attention from efforts to bring about national reconciliation.

26. Paragraph 1 should be redrafted to read: "Recommends that the Secretary-General of the United Nations, United Nations organs such as the Security Council, the High Commissioner for Human Rights, the Organization of African Unity and the neighbouring countries consider urgent measures with a view to avoiding a tragedy in Burundi".

27. Mr. van BOVEN said that since the draft decision was the outcome of a lengthy process of consultation, it should be possible for the Committee to adopt it as it stood without suggesting further amendments. It lay within the preventive approach developed by the Committee and within the framework of the Committee's terms of reference under the Convention.

28. The role of the mass media, referred to in the third preambular paragraph, had given rise to some comment. The reference, however, was chiefly to local radio stations, which were cheap to operate but capable of reaching all sections of a population. For instance, the part played by Radio Mille Collines in Rwanda in stirring up racial hatred and inciting violence had been particularly devastating and was likely to have repercussions in Burundi as well. The paragraph was thus in conformity with the provisions of article 4 of the Convention.

29. With regard to the comments on the fifth preambular paragraph, he considered it important to retain the existing form of words, as it was clear from the International Inquiry conducted by a number of non-governmental organizations that the existing pattern of impunity was having an adverse effect on local people and was hampering reconciliation. The crimes had not been committed by a people as a whole but by individuals. If those guilty individuals were not identified and brought to justice, the people as a whole would be held responsible for the acts of a minority and innocent persons could well become the target of acts of revenge. Genuine reconciliation could

be achieved only by facing the true facts and by determining responsibility for acts of violence. That had been made quite clear in the recommendations of the International Inquiry.

30. The idea of compensation, covered in the sixth preambular paragraph, although extremely difficult to address in the case of gross violence affecting a large number of people, ought to be retained precisely because such victims tended to be overlooked. Even though it might not prove possible to give redress to every victim, the principle, as set out in article 6 of the Convention, was an important one and there should be some reminder of the need for policies to provide assistance to victims.

31. While he welcomed paragraphs 2 and 3, it would be unfair to view the High Commissioner for Human Rights in the light of a deus ex machina providing solutions for every problem. The High Commissioner would, moreover, be working closely with the Assistant Secretary-General for Human Rights and the Centre for Human Rights, both long established entities that also deserved support and credit.

32. Mr. FERRERO COSTA said that the working paper referred to in the second preambular paragraph was in fact a basic policy document of the Committee, which it had formally approved. The fact that it no longer had the status of a draft should be made clear in the wording used. He endorsed the view that reference to the concept of a tribunal should be included in the draft decision as well as wording introducing the idea of reconciliation. Lastly, it might be useful for the draft decision to mention direct contacts between the Committee and Burundi in the context of preventive action.

33. Mrs. SADIQ ALI said that perhaps the insertion of the word "local" before "mass media" would answer the objections that had been made to the third preambular paragraph.

34. Mr. YUTZIS supported the suggestion that the draft decision should draw attention to the need for reconciliation. However, he too found it difficult to imagine how reconciliation could take place without justice having been seen to have been done. Impunity was a very heavy burden for any society to bear. With regard to the objections made to the reference to the mass media, he drew attention to the statement of the International Inquiry by a number of non-governmental organizations that rumour and myth fostered by radio broadcasts had played a large part in inciting people to violence. Such acts by some elements of the media not only came under the provisions of article 4 but also of article 7 of the Convention. In order to remain within the terms of the Convention, however, he suggested that the word "hostility" in the third preambular paragraph should be replaced by "racial hatred".

35. Mr. CHIGOVERA, while in agreement with the draft text as a whole, said he agreed with Mr. Aboul-Nasr on the need to be sure exactly what message would be conveyed to the people of Burundi by the fifth preambular paragraph. The meting out of justice as a precondition for reconciliation might not prove very acceptable. The further suggestion that the paragraph should include a reference to the establishment of an international tribunal, however worthy

the concept, might also prove unacceptable to the people of Burundi or to neighbouring countries, which might consider it evidence of a double standard on the part of the developed world.

36. Mr. SHERIFIS said he hoped, after the extensive consultations and wide-ranging debate, that consensus could be reached on a revised text incorporating some of the ideas and amendments put forward by members. He accordingly proposed that the third preambular paragraph should read: "Regretting the adverse effects of certain local mass media reports which foster racial hatred and violence", since the draft decision should not refer to the media in general, whose useful role the Committee supported. In the fifth preambular paragraph, he proposed the replacement of the words "in order to" by "as a means to", and the word "repatriation" by "return". Finally, in the belief that such a change would improve the text and would command the unanimous support of the Committee, he proposed the insertion of a new and final preambular paragraph reading: "Stressing the need for reconciliation, rehabilitation and reconstruction in the interest of the whole population of Burundi,".

37. The CHAIRMAN said he took it that the Committee wished to adopt the draft decision, as amended orally by Mr. Sherifis.

38. The draft decision, as amended orally, was adopted.

39. The CHAIRMAN, replying to a question by Mr. SHERIFIS, said that the Committee's decision would be handled according to the same procedure as had been followed with its decision on Rwanda.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 6) (continued)

Draft decision on racist acts of terrorism

40. The CHAIRMAN invited the Committee to consider the draft decision, the text of which had been coordinated by Mr. Lechuga Hevia and read as follows:

> "1. The Committee expresses its grave concern at terrorist acts occurring in a number of countries around the world victimizing certain racial, ethnic or national groups.
>
> "2. The Committee condemns, in particular, the barbarous terrorist attacks against a Jewish organization that took place in Buenos Aires, Argentina, on 18 July and in London, United Kingdom, on 26 and 27 July 1994 that resulted in almost 100 deaths and numerous injuries.
>
> "3. The Committee supports the call for an immediate halt to all terrorist attacks, and stresses the necessity of strengthening international cooperation in order to adopt effective measures with a view to avoiding, combating and eliminating racist terrorist attacks against the international community as a whole.

"[4. The Committee invites the Governments of Argentina and the United Kingdom to provide it with any pertinent information which could help clarify these incidents.]"

41. Mr. LECHUGA HEVIA explained that the text before the Committee, which was the revised version of an earlier draft, appeared to be acceptable to a majority of members, although some members might still prefer to reintroduce a reference to a Security Council statement concerning the two terrorist attacks in question. He would not object to the reintroduction of such a reference, but thought that it added little to the text. As it stood, the revised draft decision was of more general scope than the original version, beginning as it did with an expression of the Committee's concern at terrorist acts throughout the world, and only subsequently condemning, in particular, the racist attacks in Buenos Aires and London. Paragraph 4 had been kept in square brackets since it had failed to rally unanimous support.

42. Mr. Banton had subsequently proposed a new paragraph 4 and a paragraph 5, reading as follows:

"4. Noting that the eleventh, twelfth and thirteenth periodic reports of Argentina were due on 5 January 1990, 1992 and 1994 respectively, and that the Convention in article 9, paragraph 1, empowers the Committee to request further information from States parties, the Committee requests the Government of Argentina to expedite its next report and to include in it information upon measures undertaken to protect the right, without discrimination, to security of person and protection against violence or bodily harm in the terms of article 5 (b) of the Convention.

"5. Noting similarly that the thirteenth periodic report of the United Kingdom was due on 5 April 1994, the Committee requests that its submission be expedited and that it include similar information."

43. Mr. RECHETOV said that, by adopting the draft decision with perhaps only minor editorial amendments, the Committee would be taking a very important step in demonstrating that it was concerned with the universal observance of human rights and with all human rights violations committed on racist or nationalist grounds. The terrorist acts referred to in the draft had a clearly racist character and constituted violations of national and international law. The Committee's objective and principled stand was particularly important in the light of a recently received document produced by a non-governmental organization, casting doubt on the Committee's objectivity in adopting a decision the previous year on a similar attack. That document was itself far from objective and was designed to some extent to protect certain terrorists from criticism and monitoring by the international community.

44. Mr. ABOUL-NASR reminded the Committee that he had not been in favour of considering the various draft decisions separately. That being said, he was gratified to see that the wording of paragraph 1 met his concern that it should refer to terrorist acts in general without singling out any particular group or attack. He fully supported the wording of paragraph 2; all terrorist attacks, against any person or group, were to be condemned. With regard to paragraph 3, it was not clear whose "call" for a halt to terrorist attacks was

supported; he further proposed replacing the words "all terrorist attacks" by "terrorism in all its forms". Finally, he saw no need for any specific request for information from the Governments of Argentina and the United Kingdom; it would be sufficient to express the hope that the Governments concerned would provide further information in their forthcoming reports.

45. Mr. WOLFRUM expressed support for the draft decision as amended by Mr. Banton. The wording of paragraph 1 properly reflected the purpose of the draft decision and also made it very clear that the Committee was working within its mandate under the Convention. In paragraph 2, the Committee was rightly voicing its deepest concern, as it should do over any similar attacks in the future. He agreed to Mr. Aboul-Nasr's proposal to refer to "terrorism in all its forms" in paragraph 3, which was somewhat vague as it stood. Although he preferred Mr. Banton's proposed new wording for paragraph 4, he felt that a reference to article 2.1 (d) of the Convention would be more relevant to the Committee's concern with investigating racist acts and bringing the perpetrators to trial; there should perhaps also be a reference to article 4, which explained the criminal nature of such acts under international law.

46. Mr. van BOVEN expressed support for the general thrust of the draft decision. In response to an earlier statement by Mr. Aboul-Nasr to the effect that draft decisions of that kind should be based on proper consideration and discussion of the issues involved, he pointed out that the question of terrorist attacks, especially the recent attacks against Jewish establishments, had been raised by Mr. Yutzis at the beginning of the current session. He saw the draft decision as part of the Committee's preventive approach to racial discrimination.

47. Referring to Mr. Rechetov's remarks about a document produced by a non-governmental organization questioning the Committee's impartiality and credibility, he specified that the organization in question was United Nations Watch and the impugned decision had concerned the massacre at Hebron. He, as Country Rapporteur at the time, had supported that decision, convinced as he was that the lives of all human beings were equally precious and that everyone had the right to security of person and protection by the State against violence and bodily harm, whether committed by a group or a Government institution. Even if a State was not directly responsible for such an act, the Committee, under the terms of the Convention, wished States parties to take all necessary measures to protect the lives of all those within its jurisdiction. That was the very point of the draft decision now before the Committee, and he rejected any intimation of impartiality.

48. Mr. DIACONU said that although he agreed with Mr. Wolfrum that the two countries concerned should be asked for information about the prosecution of those guilty of racist terrorist attacks, the Committee should, in particular, request information about measures taken to protect all citizens without discrimination, as specified in the amendment proposed by Mr. Banton.

49. Mr. RECHETOV, referring to paragraph 3, said that Mr. Aboul-Nasr's concerns might be met by rewording the beginning of the paragraph to read: "The Committee condemns all forms of terrorism and stresses ..."; in the last part of the paragraph, he proposed replacing the words "avoiding, combating and eliminating" by "preventing and combating".

50. Mr. SHAHI drew attention to an inconsistency in the wording of the text: paragraph 1 referred to "terrorist acts" and the first part of paragraph 3 to "all terrorist attacks", while the latter part of paragraph 3 referred to "racist terrorist attacks".

The meeting rose at 1 p.m.